

Categorical Exclusion Documentation Format for Actions Other Than Hazardous Fuels and Fire Rehabilitation Actions

Dyno Nobel Burt, Inc.
DOI-BLM-AZ-P010-2010-0031-CX

A. Background

BLM Office: Hassayampa Field Office (HFO)
Lease/Serial/Case File No.: AZA-25635

Proposed Action Title/Type: Storage & Stockpile Permit Renewal

Location of Proposed Action: Gila & Salt River Meridian, Yavapai County, Arizona
T. 12 N., R. 1 E., Section 23, E $\frac{1}{2}$ SE $\frac{1}{4}$; T. 12 N., R. 1 E., Section 24, W $\frac{1}{2}$ SW $\frac{1}{4}$.

Description of Proposed Action: The proposed action is for the renewal of Bureau of Land Management (BLM) Form 2920-1, Land Use Application And Permit (AZA-25635), to be issued for the storage of explosives. The permit was first issued in 1991 and was renewed up until it expired November 12, 2009. On June 5, 2007, Dyno Nobel modified their permit to include several “strategic” fences to restrict/deter access to their site (see the attached Exhibits A, B, and C). If approved, the permit will be effective November 13, 2009 and will expire on November 12, 2012.

B. Land Use Plan Conformance

Land Use Plan (LUP) Name: Bradshaw-Harquahala Approved Resource Management Plan
Date Approved/Amended: 4/20/2010

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s):

LR-24. *“Continue to issue land use authorizations (right-of-way, leases, permits, easements) on a case-by-case basis and in accordance with resource management prescriptions in this land use plan.”*

C: Compliance with NEPA:

The Proposed Action is categorically excluded from further documentation [i.e., Environmental Analysis (EA), Environmental Impact Statement (EIS)] under the National Environmental Policy Act (NEPA) in accordance with 516 Departmental Manual (DM)2, Appendix 1, or 516 DM 11.9 Appendix 4, E(9) states:

“Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.”

This categorical exclusion (CX) is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM2 apply.

CRITERIA	Comment (YES/NO)	Staff Initial
1. Have significant impacts on public health and safety?	<u>NO</u>	<u>HC</u>
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas?	<u>NO</u>	<u>HC</u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	<u>NO</u>	<u>HC</u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	<u>NO</u>	<u>HC</u>
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	<u>NO</u>	<u>HC</u>
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	<u>NO</u>	<u>HC</u>
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the Bureau or office?	<u>NO</u>	<u>HC</u>
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?	<u>NO</u>	<u>HC</u>
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?	<u>NO</u>	<u>HC</u>

10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)? NO HC

11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners, or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007)? NO HC

12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)? NO HC

EXISTING EA/EIS REVIEW FOR ADMINISTRATIVE DETERMINATION

This proposed action is addressed in the following existing BLM EA/EIS: United States (U.S.), Department of the Interior (DOI), BLM, Phoenix District Office (PDO), HFO, NEPA Number AZ-210-2007-017, dated May 2, 2007.

This EA/EIS has been reviewed against the following criteria to determine if it covers the proposed action.

1. The proposed action is a feature of, or essentially the same as, the alternative selected and analyzed in the existing document.
2. A reasonable range of alternatives was analyzed in the existing document.
3. There has been no significant change in circumstances or significant new information germane to the proposed action.
4. The methodology/analytical approach previously used is appropriate for the proposed action.
5. The direct and indirect impacts of the proposed action are not significantly different than those identified in the existing document.
6. The proposed action would not change the previous analysis of cumulative impacts.
7. Public involvement in the previous analysis provides appropriate coverage for the proposed action.

SIGNATURE(S) FOR COMPLIANCE

PREPARER: /S/ Hillary Conner DATE: 7/27/2010

Dyno Nobel Burt, Inc.

DOI-BLM-AZ-P010-2010-0031-CX

DECISION

This action will not have a direct or indirect adverse impact on energy development, production, supply and/or distribution. It is my decision to implement the project, as described, with the mitigation measures identified below and stipulations attached.

MITIGATION MEASURES/OTHER REMARKS:

1. This permit is issued subject to the permittee's compliance with all applicable regulations contained in Title 43 CFR, part 2920.
2. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the holder or any person working on the holders behalf, on public or federal land, shall be immediately reported to the Authorized Officer (AO). The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the AO. An evaluation of the discovery will be made the AO to determine the appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of the evaluation and any decision as to the proper mitigation measures will be made by the AO after consulting with the holder.

D: Signature

Authorizing Official: /S/ D. Reamington Hawes Date: 8/3/2010

Name: FOR Steven Cohn
Title: Hassayampa Field Manager

Contact Person

For additional information concerning this CX review, contact: Hillary Conner, Realty Specialist, at 623-580-5649.

Note: A separate decision document must be prepared for the action covered by the CX. See Attachment 1.

Approval and Decision Attachment 1

Compliance and assignment of responsibility: Lands Program

Monitoring and assignment of responsibility: Lands Program

Review: *We have determined that the proposal is in accordance with the CX criteria and that it would not involve any significant environmental effects. Therefore, it is categorically excluded from further environmental review.*

Prepared by: _____/S/ Hillary Conner_____ **Date:** 7 / 22 / 2010

Hillary Conner
Realty Specialist

Reviewed by: _____/S/ Leah Baker_____ **Date:** 8 / 1 / 2010

Leah Baker
Planning & Environmental Coordinator

Reviewed by: _____/S/ Jim Andersen_____ **Date:** 7 / 27 / 2010

Jim Andersen
Lands & Realty Team Lead

Project Description: The proposed action is to renew Dyno Nobel Burt Inc. 2920 permit AZA-25635. Dyno Nobel Burt Inc. was last granted the right to store explosives on public land, on November 13, 1991. Each year, the permit has been issued for a term of 3 years pursuant to Title V of the Federal Land Policy and Management (FLPMA) of October 21, 1976 (90 Stat. 2776; 43 United States Code 1761). The terms and conditions of the original grant continue to apply. If approved, the effective date of this renewal will be set to coincide with the previous expiration date or November 13, 2009. A land status review of the area listed above was completed, on May 13, 2010. No significant changes have been found in the area. The storage and stockpile site, which remains in use, is in compliance with the terms and conditions of the original permit.

Decision: Based on a review of the project described above and field office staff recommendations, I have determined that the project is in conformance with the LUP and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed, with the following stipulations (if applicable).

Approved By: _____/S/ D. Reamington Hawes_____ **Date:** 8/3/2010

FOR Steve Cohn
Hassayampa Field Manager

STIPULATIONS for AZA-25635
DYNO NOBEL BURT, INC. PERMIT

Permit AZA-25635, the details of which are shown within the above CX, is hereby granted, subject the following terms and conditions:

1. The permittee shall provide copies of all licenses and permits required by federal, state, and local laws and regulations in connection with this facility including the licenses required by the Bureau of Alcohol, Tobacco and Firearms for the sale and storage of explosives and the Department of Transportation for the transportation of explosives, and the Yavapai County Use Permit approving this project, in addition to an insurance rider naming the United States of America as insured for an amount satisfactory to the AO, before construction of this facility or use of the access route involved begins;
2. In cooperation with the Arizona State Commission of Agriculture and Horticulture, care shall be taken to salvage or avoid mature plant species protected by state law;
3. The permittee shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the lands under this permit or on facilities authorized by this permit. (See 40 CFR Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761, 193). Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal or State agency as a result of a reportable release or spill of any toxic substances shall be furnished to the AO concurrent with the filing of the reports to the involved Federal or State Agency;
4. The holder of permit AZA-25635 agrees to indemnify the U.S. against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et. seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq.) on the permitted area, unless the release or threatened release is wholly unrelated to the permit holder's activity on the authorized site. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties;
5. The permittee shall revoke all materials related to the construction and use of this facility (and related structures) within 30 days of the termination of this permit;

6. If fencing is barbed wire design, the bottom wire shall be smooth (barbless) and greater than 16" above ground;
7. Gates shall have reflectors or signs with reflective lettering that can be seen at night by all terrain vehicle (ATV) users;
8. A sign shall be placed at its intersection of the county road to the north and the pipeline road informing off highway vehicle (OHV) users that there is no thru access to discourage use;
9. The permit herein granted shall be subject to the express covenant that it will be modified, adapted, or discontinued if found by the Secretary to be necessary, without liability or expense to the U.S., so as not to conflict with the use and occupancy of the land for any authorized works which may be hereafter constructed thereon under the authority of the U.S.;
10. Permittee shall survey and clearly mark the exterior limits of the permit. All activities directly or indirectly associated with construction or maintenance must be conducted within the limits of the permit; removal of vegetation shall be restricted to that absolutely essential to construction or maintenance;
11. The permittee shall not use any pesticides on the Federal lands herein involved without specific prior authorization from the BLM AO;
12. This permit reserves to the Secretary of the Interior, or his lawful delegate, the right to grant additional permits or right-of-ways (ROWs) for compatible uses over, under or adjacent to the land involved in this grant;
13. Failure of the holder to comply with applicable law or any provision of this permit or ROW grant shall constitute grounds for suspension or termination thereof;
14. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public;
15. The holder shall comply with all Federal, State, and local regulations whether or not specifically mentioned within this permit;
16. All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices;
17. The holder shall inform the AO within 48 hours of any accidents on federal lands that require reporting to the Department of Transportation as required by 49 CFR Part 195;
18. The holder shall meet Federal, State, and local emission standards for air quality;

19. The holder shall protect all survey monuments found within the permit area. Survey monuments include, but are not limited to, General Land Office and BLM Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the AO and the respective installing authority if known. Where General Land Office or BLM ROW monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the AO. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost;
20. The holder (or holder's successor in interest) of this permit grant shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto;
21. It is against the law to collect desert tortoise from the wild. If tortoises are found in the project area, they shall be removed from the area and released, in the shade, unharmed. (When moving a tortoise, approach the tortoise from the end of the shell with the head. Note the direction the tortoise was heading and carefully carry it no more than 150 feet and release it in the direction that it was heading. If possible, place the tortoise in the shade. Carry the tortoise upright, in its normal walking position. Do not tip it from side to side or upside down. If a tortoise becomes frightened, it may empty its bladder as a defense mechanism. The loss of bladder fluids can place the tortoise under additional stress because tortoise store water in the bladder for use during the dry times of year;
22. Upon permit termination by the AO, all improvements shall be removed from the public lands within 30 days, or otherwise disposed of as directed by the AO;
23. Upon completion of construction, the lands shall be restored to as near their natural condition as possible, subject to approval by the DM, at the PDO;
24. Within 60 days after completion of construction or after all restoration stipulations have been complied with, whichever is later, proof of construction, on forms approved by the Director, shall be submitted to the AO;
25. If this permit is renewed, the permit will be subject to regulations existing at the time of renewal and such other terms and conditions deemed necessary to protect the public interest.